

21 C.J.S. Courts § 73

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

E. Mode of Acquiring Jurisdiction

2. Jurisdiction by Party's Consent, Agreement, Waiver, or Estoppel

§ 73. Personal jurisdiction by defendant's voluntary appearance

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West's Key Number Digest

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Generally, a court may acquire personal jurisdiction of a party defendant by the defendant's entry of a general appearance.

A court may acquire personal jurisdiction of a party defendant by the defendant's entry of a general appearance or voluntary appearance in court and submission to the court's jurisdiction.¹ A defendant's general appearance waives any defects in the jurisdiction of the court for want of valid summons or of proper service of process.²

A general appearance is one whereby the defendant submits the defendant's person to the jurisdiction of the court by invoking the judgment of the court in any manner on any question other than that of the jurisdiction of the court over the defendant's person.³

Special appearance.

An appearance merely for purpose of objecting to a lack of any service of process or to a defect in process or in service of it, is a special appearance by which the defendant does not submit the defendant's person to the jurisdiction of the court.⁴

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Footnotes

- 1 Ariz.—*Davis v. Davis*, 230 Ariz. 333, 284 P.3d 23 (Ct. App. Div. 1 2012).

Cal.—*In re Marriage of Obrecht*, 245 Cal. App. 4th 1, 199 Cal. Rptr. 3d 438 (6th Dist. 2016).

Miss.—*Richard v. Garma-Fernandez*, 121 So. 3d 929 (Miss. Ct. App. 2013).

Neb.—*Johnson v. Johnson*, 282 Neb. 42, 803 N.W.2d 420 (2011).

N.C.—*Tobe-Williams v. New Hanover County Bd. of Educ.*, 234 N.C. App. 453, 759 S.E.2d 680, 306 Ed. Law Rep. 558 (2014).

Okla.—*Guffey v. Ostonakulov*, 2014 OK 6, 321 P.3d 971 (Okla. 2014).

Utah—*Bel Courtyard Investments, Inc. v. Wolfe*, 2013 UT App 217, 310 P.3d 747 (Utah Ct. App. 2013).

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Objection before judgment to jurisdiction of court over subject matter as constituting general appearance, 25 A.L.R.2d 833.
- 2 N.C.—*Tobe-Williams v. New Hanover County Bd. of Educ.*, 234 N.C. App. 453, 759 S.E.2d 680, 306 Ed. Law Rep. 558 (2014).

Utah—*Bel Courtyard Investments, Inc. v. Wolfe*, 2013 UT App 217, 310 P.3d 747 (Utah Ct. App. 2013).

Right to contest personal jurisdiction may be lost
Miss.—*Richard v. Garma-Fernandez*, 121 So. 3d 929 (Miss. Ct. App. 2013).
- 3 N.C.—*Tobe-Williams v. New Hanover County Bd. of Educ.*, 234 N.C. App. 453, 759 S.E.2d 680, 306 Ed. Law Rep. 558 (2014).
- 4 N.C.—*Tobe-Williams v. New Hanover County Bd. of Educ.*, 234 N.C. App. 453, 759 S.E.2d 680, 306 Ed. Law Rep. 558 (2014).

Proper method for challenge
Okla.—*Guffey v. Ostonakulov*, 2014 OK 6, 321 P.3d 971 (Okla. 2014).

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Litigant's participation on merits, after objection to jurisdiction of person made under special appearance or the like has been overruled, as waiver of objection, 62 A.L.R.2d 937.